

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4723 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MUNICIPAL CORPORATION OF AHMEDABAD.

Versus

KALUPUR COMMERICAL CO-OP. BANK LTD.

Appearance:

MR JR NANAVATI & A.R.Thakkar for Petitioner

No one is present on behalf of respondent - Kalupur Commercial Co-operative Bank Ltd., although name of the counsel representing the Bank has been duly sown in the Board.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 08/04/99

ORAL JUDGEMENT

It may be mentioned at the very threshold that the first set of the papers in this Special Civil Application is not available, only second set is available and whereas the matter is as old as of 1984, in

the facts and circumstances of this case, we have considered it proper to proceed to hear and decide this matter on the basis of the second set, which is available with the Court.

The order Exh.9 dt.23.4.84 passed in M.V.Appeal (B.P.M.C.Act) No.5674/83 by the Small Causes Court No.2 at Ahmedabad is under challenge in this petition. The learned counsel for the petitioner - Municipal Corporation has submitted that the respondent took the premises situated in Karnavati Society, Ashram Road, Ahmedabad at the monthly rent of Rs.1000/- from 1.12.80. Premises are situated on the ground floor of the tenement. It has also been submitted that the amount was increased to Rs.1500/- P.M. with effect from 15.1.82. The Municipal Corporation assessed the Gross Rateable Value (hereinafter referred to as 'the GRV') of the aforesaid premises for the purposes of the property tax on the basis of the contractual rent at Rs.25452/-. Aggrieved from this assessment, as aforesaid, the respondent had filed a complaint against the said GRV on 15.9.83. The Appellate Officer of the Municipal Corporation confirmed the said valuation made by the appellant- Corporation. Aggrieved from this decision of the Municipal Corporation, the respondent filed M.V.Appeal in the Small Causes Court at Ahmedabad, which was registered as M.V.Appeal No.5674/83. The Small Causes court by its judgment and order dt.23.4.84 has determined the GRV of the premises in question at Rs.1980/- for the year 1983-84. It is this order dt.23.4.84, which has been challenged by the petitioner Municipal Corporation in this Special Civil Application.

The learned counsel for the petitioner has submitted that the GRV has been reduced to Rs.1980/- from that of Rs.25452/- without any material and it has also been submitted that the aforesaid assessment was based on the contractual rent and there is no material to hold that the same was excessive. The learned counsel for the Corporation has pointed out that the instances, as mentioned in Para 6 of the impugned order dt.23.4.84, which have been relied upon by the Small Causes Court for the purpose of reducing the GRV, are all those instances in which the orders, which were passed by the Small Causes Court, had been set aside by the High Court when the same were challenged. Mr.A.R.Thakkar has made a statement at the Bar that all these orders had been set aside by the High Court and there is no one present on behalf of the respondent - Bank to controvert the said statement.

We have also gone through the impugned order and we find that the GRV has been reduced to a considerable extent from Rs.25452/- to Rs.1980/- although there was no material to hold that the contractual rent was excessive. In the facts and circumstances of this case, we find that the impugned order dt.23.4.84 cannot be sustained in the eye of law. The same is hereby quashed and set aside and the assessment of the premises in question, as had been made by the Municipal Corporation, stands restored. Special Civil Application is allowed and the Rule is made absolute in the terms as aforesaid. No order as to costs.